

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

By

AT BALTIMORE
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

FILED
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MAR 03 2022

Graham Schiff

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Brian Frosh, In His Official Capacity as Attorney General of Maryland

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Complaint for a Civil Case DEPUTY

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☒ No
(check one)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Graham Schiff
Street Address	7814 Aberdeen Road
City and County	Bethesda, Montgomery
State and Zip Code	Maryland 20814
Telephone Number	301-656-4262
E-mail Address	grahamhschiff@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Brian Frosh
Job or Title (if known)	Attorney General of Maryland
Street Address	200 Saint Paul Place
City and County	Baltimore
State and Zip Code	Maryland 21202
Telephone Number	
E-mail Address (if known)	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Article 1 Section 9 Clause 2

14th Amendment Due Process Clause

14th Amendment Equal Protection Clause

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

This complaint is being brought against the Attorney General of Maryland to address an unconstitutional loophole in state habeas law, requiring injunctive relief. See attached on next page.

1

The writ of habeas corpus is a fundamental constitutional right for Americans as contained in Article 1 Section 9 Clause 2 of the federal constitution: *"The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."*

As clearly stated, there is absolutely no basis in law to deny a criminal defendant in an American court of their right to habeas corpus. Yet, as the facts will show in this complaint, this right was denied to the plaintiff during his time as a criminal defendant in Montgomery County, Maryland.

The plaintiff is currently a defendant in Case#136380c in The Circuit Court for Montgomery County, serving a term of probation. The plaintiff made a plethora of different filings related to this case during his time incarcerated from 2019-2021, and currently has a pending habeas petition under 28 USC 2254 in the Court of Appeals for the Fourth Circuit, having been denied by this court. However, the need for this complaint stems from the plaintiff being denied his aforementioned right to habeas corpus during state proceedings, leading up to, and after his trial in May of 2021.

Early in 2021, the administrative judge for Montgomery County, at that time, Robert Greenberg, permanently recused himself from anything related to the plaintiff. However, in the process, he also essentially led a de facto boycott of the plaintiff's civil rights, including, but not limited to habeas corpus, by shutting down all administrative functions of the court for the plaintiff after his recusal. On 2/17/2021, more than three months prior to his trial, the plaintiff filed a writ of habeas corpus under state law, attempting to test the legality of his detention. On 5/27/2021, three days after being convicted in Case#136380c, he once again filed a petition for habeas relief. Both these petitions remain open and have not been ruled on, up until the present day.

The reasons for this stems from the fact, it was Judge Greenberg's job as administrative judge, to refer these petitions to a judge other than the trial judge in compliance with state habeas law. Obviously, this never happened. In July of 2021, Greenberg was replaced as administrative judge by James Bonifant, who made no effort to correct this abuse of the plaintiff's rights.

In February of 2022, the plaintiff filed a pleading (seen in Appendix) in the Maryland Court of Appeals against James Bonifant, asking the court to exercise its original jurisdiction as the supreme court of Maryland, in issuing a writ to Bonifant, ordering redress for the denial of the plaintiff's habeas rights. The COA denied that petition on 2/24/2022, and still, these habeas petitions remain open.

The plaintiff would like to acknowledge, this complaint is arising out of rare, bizarre, and possibly unprecedented circumstances: Where an entire state court system, led by the defendant in this case, assumed the role of vigilantes, to deny a defendant of multiple constitutional rights, in order to legitimize and enable a fake and malicious prosecution brought against the plaintiff, where the fake victim is an Assistant State Attorney.

②

That being said, if acting within the basis of Maryland law regarding habeas corpus, the state was able to organize a de facto boycott of plaintiff's right to habeas corpus, to the point that its highest court refuses to intervene, it clearly shows that the state law is insufficient in law, to the point of being unconstitutional, if a situation like this took place.

The plaintiff would like to articulate in the strongest possible terms, that this complaint is being brought under 42 USC 1983 for a reason. This complaint should not be construed as a habeas petition, or petition for mandamus, or any other similar relief. Obviously the plaintiff was denied his right to habeas corpus by the state, and the damage is done, presumably his convictions will be overturned by the Maryland Court of Special Appeals or Fourth Circuit Court of Appeals.

However, since the Maryland Court of Appeals refuses to remedy this issue, it requires intervention from this court, in the form of injunctive relief. In addition to the aforementioned habeas statute in the federal constitution, the plaintiff was also denied his rights to due process and equal protection under the 14th amendment, with the equal protection clause being invoked because these actions also denied the plaintiff of his right to habeas corpus as contained in Maryland's constitution.

The only precedent the plaintiff could find regarding denial of right to habeas corpus is Ex Parte Milligan (1866) a Supreme Court case where the court ruled in favor of a Union dissenter who had been denied his right to habeas corpus, despite being an American citizen, and Boumediene v. Bush (2008), where the court ruled that enemy combatants (note: not American citizens) held at Guantanamo Bay, Cuba have constitutional rights. The latter case obviously played a significant role in shaping current federal habeas law.

Both these cases revolved around presidential challenges to the right of habeas corpus to persons declared to be supporting an enemy in a time of war. Neither of these cases, other than the denial of habeas rights, in anyway remotely align with the facts of plaintiff's case.

As demonstrated, persons acting on behalf of the State of Maryland, used a loophole in state habeas provisions, to deny plaintiff of his habeas rights, by simply boycotting his petitions for habeas relief. That is something that needs to be remedied by this court. In the plaintiff's most humble opinion, when state court personnel are able to use loopholes in state laws and/or court process to willfully and maliciously deny defendants of their federal constitutional rights, they will do so, until there is intervention from a higher court.

Graham Schiff

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages. For any request for injunctive relief, explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

1) A declaration that the state law as applied to the facts described herein

violates Article 1 Section 9 Clause 2 and the 14th Amendment of the United States Constitution.

2) An injunction ordering the State of Maryland to amend its Habeas Corpus laws

so they no longer violate these aforementioned constitutional provisions.

③ Any other relief deemed necessary or appropriate

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 2/26, 2022

Signature of Plaintiff Graham Schiff
Printed Name of Plaintiff Graham Schiff

(If more than one plaintiff is named in the complaint, attach an additional certification and signature page for each additional plaintiff.)

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney _____
Printed Name of Attorney _____
Bar Number _____
Name of Law Firm _____
Address _____
Telephone Number _____
Email Address _____